

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

AITZA FIGUEROA TELEMACO,

Plaintiff,

v.

MOBILE PAINTS MANUFACTURING CO.,
INC., et al.,

Defendants.

Civil No. 05-1205 (JAF)

OPINION AND ORDER

Before the court is Plaintiff's motion for reconsideration under Rule 60(b) of the Federal Rules of Civil Procedure, filed on June 12, 2006. Docket Document No. 32; FED. R. CIV. P. 60 (1992 & Supp. 2005). In it, Plaintiff urges us to revisit our March 15, 2006, Opinion and Order granting Defendants' motion for summary judgment and dismissing her complaint. Docket Document Nos. 30, 32. Defendants opposed Plaintiff's motion on June 26, 2006. Docket Document No. 33.

We begin by examining Plaintiff's choice to file her motion for reconsideration under Rule 60(b), and not the much more commonly-invoked Rule 59(e), of the Federal Rules of Civil Procedure. Docket Document No. 32. Given that Plaintiff's motion was filed on June 12, 2006, almost three months after we issued the March 15, 2006, Opinion and Order it seeks to alter, it would have been subject to summary dismissal had it been made under Rule 59(e), which requires that

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1 "[a]ny motion to alter or amend a judgment [be] filed no later than
2 10 days after entry of the judgment." FED. R. CIV. P. 59 (1992 & Supp.
3 2005).

4 Rule 60(b) motions, on the other hand, are not subject to this
5 stringent ten-day time limit and need only be made "within a
6 reasonable time;" it is no wonder, then, that Plaintiff's counsel,
7 filing so late, would invoke Rule 60(b) and not Rule 59(e). FED. R.
8 CIV. P. 60. Rule 60(b) does not exist, however, to provide an easy
9 Plan B approach for lawyers who did not pay attention to Rule 59(e)
10 reconsideration motion deadlines.

11 Rule 60(b) provides relief from a final judgment, order, or
12 proceeding for, inter alia, "mistake, inadvertence, surprise or
13 excusable neglect" and can only be invoked in "special situations
14 justifying extraordinary relief." Id; Silk v. Sandoval, 435 F.2d
15 1266 (1st Cir. 1971). Plaintiff's disagreement with the court's
16 legal conclusions regarding this case was apparent to her on the very
17 day we issued our March 15, 2006, Opinion and Order and, therefore,
18 does not constitute a "special situation" status justifying the
19 "extraordinary relief" afforded by Rule 60(b). Hoult v. Hoult, 57
20 F.3d 1, 5 (1st Cir. 1995) ("The gravamen of defendant's argument is
21 that the district court wrongly decided a point of law. This is not
22 grounds for relief under Rule 60(b)."); Elias v. Ford Motor Co., 734
23 F.2d 463, 467 (1st Cir. 1984) (observing the First Circuit's
24 longstanding position that "mistake, inadvertence, surprise, or

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1 excusable neglect" does not include alleged errors of law); Silk, 435
2 F.2d at 1267-68 (ruling that a construction of "mistake" under Rule
3 60(b) that is coextensive with that under Rule 59(e) undermines the
4 interest in speedy disposition and finality that Rule 59(e)
5 reflects).

6 Because Plaintiff's motion must, therefore, be construed as
7 coming under Rule 59(e), and not Rule 60(b), it is plainly untimely
8 and is summarily dismissed. See Elias, 734 F.2d at 466 (1st Cir.
9 1984) ("[The] strict ten-day limitation [of Rule 59(e)] cannot be
10 extended."); Alvarado Aviles v. Burgos, 601 F. Supp. 29, 32 (D.P.R.
11 1984). Even if Plaintiff's Rule 59(e) motion had been timely filed,
12 however, we would still conclude that our March 15, 2006, Opinion and
13 Order is correct and that Plaintiff is not entitled to the relief she
14 requests.

15 A complete factual summary for this pregnancy discrimination
16 case can be found in our March 15, 2006, Opinion and Order. Docket
17 Document No. 30. In that Opinion and Order, which was written after
18 discovery in this case had concluded, we analyzed Defendants' motion
19 for summary judgment using the McDonnell Douglas burden-shifting
20 framework. Id. (citing McDonnell Douglas Corp. v. Green, 411 U.S.
21 792 (1973)). In order to defeat Defendants' summary judgment motion
22 under McDonnell Douglas, Plaintiff had to first establish a prima-
23 facie case of unlawful pregnancy discrimination, which she did; then,
24 a burden of production shifted to Defendants to articulate some

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1 legitimate, non-discriminatory reason for the adverse employment
2 action, which they did; and finally, a burden of persuasion shifted
3 back to Plaintiff to produce evidence showing that discriminatory
4 animus, and not Defendants' espoused non-discriminatory excuse,
5 motivated the adverse employment action against her, which she did
6 not. Id. Because she did not, we granted summary judgment in
7 Defendants' favor as the law required us to do. Id.

8 Plaintiff now argues that our disposition of the case was
9 incorrect because Defendants never submitted: (1) sufficient economic
10 data to substantiate their claim that they fired Plaintiff for
11 economic reasons; or (2) evidence to show what other cost-cutting
12 measures they took, besides her termination, in order to alleviate
13 their economic strife. Docket Document No. 32. Without such evidence,
14 Plaintiff argues that this court cannot possibly say, as a matter of
15 law, that Defendants' reason for her dismissal was not attributable
16 to pregnancy discrimination. Id.

17 Plaintiff misunderstands what her legal burden was in all of
18 this. As we briefly sketched out two paragraphs ago, and explained
19 in what we thought was extremely clear detail in our March 15, 2006,
20 Opinion and Order, all Defendants were obligated to do under the
21 McDonnell Douglas burden-shifting framework on summary judgment was
22 articulate some legitimate, non-discriminatory reason for why
23 Plaintiff was terminated. Docket Document No. 30. Defendants
24 satisfied this burden of production by explaining that economic woes

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1 and an attempt to downsize were the legitimate, non-discriminatory
2 reason behind Plaintiff's termination. Id. After that, the ball
3 was in Plaintiff's court to save her lawsuit from dismissal by
4 pointing to evidence showing that Defendants' economic excuse was
5 pretextual and that they instead discriminated against her because of
6 her pregnancy. McDonnell Douglas, 411 U.S. at 804. Plaintiff did
7 not do this: In an attempt to meet her burden of persuasion,
8 Plaintiff presented the court with three pieces of evidence, each of
9 which we found utterly unconvincing. Docket Document No. 30. We
10 need not re-review our thoughts on Plaintiff's evidence here for they
11 are quite fully and clearly discussed in our March 15, 2006, Opinion
12 and Order. Id.

13 For the reasons stated herein, we **DENY** Plaintiff's motion to
14 reconsider. Docket Document No. 32.

15 **IT IS SO ORDERED.**

16 San Juan, Puerto Rico, this 19th day of July, 2006.

17 s/José Antonio Fusté
18 JOSE ANTONIO FUSTE
19 Chief U. S. District Judge